



Pension Plan Consulting, Administration, and Investment Services

March 10, 2008

To Whom It May Concern:

I am the Manager of Administration Services at YHB Pension Services/PASI, LLC. We are a provider of retirement plan investment and administration services to roughly 500 small to mid-sized employers.

I am sending this testimony to voice my opposition to **S. B. No. 652 (RAISED) AN ACT CONCERNING SMALL BUSINESS RETIREMENT PLANS.**

I commend the Committee for its efforts to make retirement plans more economically viable for the small business owner. However, I disagree that providing better investments will convince small business owners to adopt the State's Plan. In my opinion, there are far greater obstacles to contend with:

- 1) The cost of administration; and
- 2) Federal compliance rules that significantly limit the ability of the small business owners to save for their own retirement.

WITH RESPECT TO ADMINISTRATION

Each adopting small business will essentially be treated as sponsoring its own Plan under ERISA; compliance with ERISA must therefore be documented annually for each employer. In order to fulfill these annual requirements, the State must do the following for *each* of the employers (currently handled by third-party-administrators or bundled providers):

- 1) Collect census information;
- 2) Run nondiscrimination testing;
- 3) Allocate employer contributions provided for under the Plan;
- 4) Assist employers in dealing with any compliance issues that might arise, such as mergers and acquisitions or plan terminations.

If the State intends to a) break-even on providing these services, and b) provide adequate service to its clients, there will need to be substantial *annual* fees. **Therefore, this obstacle will continue to exist.**

WITH RESPECT TO COMPLIANCE CONCERNS

Both the ADP Test and the top-heavy rules create obstacles for small business owners that are often-times insurmountable.

- The ADP test limits the contributions of the owners based on the contribution levels of the employees. Participation levels are heavily correlated with demographics, such as compensation and age. Depending on the business' demographics, meaningful savings could be unattainable, particularly for owners who have relatively low compensation (i.e., because each dollar contributed represents a higher percentage of pay).
- The top-heavy rules require a minimum contribution of 3% of pay to employees if more than 60% of plan assets are allocated to the owners. Plans of small employers, particularly those of family run businesses, are extremely susceptible to top-heaviness. The only way to avoid this contribution is for business owners to suspend their own contributions; and frequently, that is exactly what they do.

Although Federal law has provided us with SIMPLE's and Safe Harbor Plans, which are exempt from these rules, these Plans include mandatory generous employer contributions which many small businesses cannot afford. **Unless Federal legislation is passed addressing these issues, this obstacle will continue to exist.**

Because the Committee's proposal does not address these fundamental obstacles, **I urge you to reject this measure.** Thank you for your consideration of my thoughts on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Beck'.

David Beck, CPA, QPA